



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

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MEMORANDUM FOR DISTRIBUTION

Subj: WAIVERS OF COST ACCOUNTING STANDARDS

Encl: (1) OUSD(AT&L)DPAP/P memorandum of January 31, 2003

Enclosure (1) is provided for your information and action as appropriate.

The DASN(ACQ) point of contact is Mr. Ronald G. Ostrom
(703) 602-2798, fax (703) 602-2117, or ostrom.ronald@hq.navy.mil.


M. F. Jaggard
Chief of Staff/Policy
for DASN(ACQ)

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OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

31 JAN 2003

DPAP/P

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
ACTING DEPUTY ASSISTANT SECRETARY OF THE ARMY
(POLICY AND PROCUREMENT), ASA(ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION MANAGEMENT), ASN(RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
EXECUTIVE DIRECTOR, ACQUISITION, TECHNOLOGY,
AND SUPPLY DIRECTORATE (DLA)

SUBJECT: Waivers of Cost Accounting Standards

FAR 30.201-5, Waiver, provides for the head of an executive agency to waive the applicability of the Cost Accounting Standards (CAS) for a particular contract or subcontract under exceptional circumstances. This authority was provided to executive agencies in the National Defense Authorization Act for Fiscal Year 2000. Defense Authorization Act for fiscal year 2003 provides some significant limitations on the use of this authority.

In accordance with the provisions of section 817 of the National Defense Authorization Act for Fiscal Year 2003, this exceptional circumstances authority applies only when a determination is made that:

1. The property or services cannot reasonably be obtained under the contract, subcontract, or modification, as the case may be, without the granting the waiver;
2. The price can be determined to be fair and reasonable without the application of the cost accounting standards; and
3. There are demonstrated benefits to granting the waiver.

Thus, effective immediately, executive agencies may authorize CAS waivers only when a determination is made that the three circumstances delineated above exist. The



ENCLOSURE (1)

Defense Acquisition Regulatory Council is currently drafting revised DFARS language to reflect these new requirements.

It is important to note that DoD is not precluded from requesting waivers of CAS from the CAS Board for circumstances that do not meet the aforementioned three requirements. Such waivers, if needed, should be processed in accordance with the requirements at 48 CFR 9903.201-5(e).

If you have any questions regarding this memorandum, please contact Mr. David J. Capitano, Senior Procurement Analyst, at 703-602-4245.



Deidre A. Lee
Director, Defense Procurement
and Acquisition Policy